



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Kimle, et al.
SERIAL NO : 09/335,648
FILED : June 18, 1999
TITLE : METHOD OF ELECTRONICALLY INITIATING AND MANAGING
AGRICULTURAL PRODUCTION CONTRACTS
Grp./A.U. : 2164
Examiner : Kyle, C.
Conf. No. : 6709
Docket No. : P03566US0

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES OR IN A NAFTA
OR WTO MEMBER COUNTRY TO OVERCOME CITED PATENT OR
PUBLICATION
(37 CFR 1.131)**

Assistant Commissioner for Patents
Washington, D.C. 20231

A. PURPOSE OF DECLARATION

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to September 4, 1996, that is the effective date of the prior art patent, Walker U.S. Patent 5,794,207, that has been cited by the Examiner in the Office Action of April 27, 2001.
2. The persons making this Declaration are several inventors, who are also officers of E-Markets, Inc., the party in interest, and the President and Chief Operating Officer of E-Markets, Inc.
3. The remaining inventors are no longer with E-Markets, Inc. and their whereabouts are presently unknown.

B. FACTS AND DOCUMENTARY EVIDENCE

4. To establish the date of completion of the invention of this application, the following attached documents are submitted as evidence:

Exhibit A: Reproductions of handwritten notebook entries of one of the inventors (5 pages).

Exhibit B: Reproductions of subsequent notebook entries of one of the inventors (5 pages).

Exhibit C: Reproductions of pages of a draft business plan for the assignee of all interest in the present application (8 pages).

5. From these documents, all of which were created and in existence prior to September 4, 1996, it can be seen that the invention in this application was made at least by the date of September 4, 1996, which is a date earlier than the effective date of the reference. Dates on the documents have been redacted.

6. Specifically, the documents of Exhibits A-C show the following concepts from the claims of the application:

- (a) implementation on the world wide web with a web server.

(See, e.g., Exh. A, page 1 -- "Platforms: 1) separate software... 2) WWW..."; and Exh. C, page 2 -- mock up internet browser page).

- (b) Use of a central database to store relevant information about buyers and producers

(See, e.g., Exh. A, page 4 -- "...database (and date entry).. and Exh. A, top of page 5, where different information types are mentioned "time", "price", "where", "quality", "quantity"....).

- (c) The type of data to be stored (e.g. type/ amount/ acres/ bushels of agricultural commodity) desired or committed to be produced
(See Exh. A, pages 4-5).
- (d) Input options from prospective buyer(s)
(See Exh. A, page 1 -- "White Corn Bid...Where...When...highest bid...expiration"; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price...."; Exh. B, page 5 -- "E-Contract...Contract pricing...").
- (e) Input options from prospective producer of the product
(See Exh. A, page 1 -- "White Corn market...Deliverable...Where...Bid Ask..."; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price...", "delivery points"; Exh. B, page 2 -- "Members...info you need..."; Exh. B, page 3 -- "Delivery Schedule").
- (f) Generation of a contract memorializing an agreed transaction
(See Exh. A, page 3 -- "Take contracting situation and form info. system to link to electronic transactions features"; Exh. B, page 4 -- "Contract execution..."; Exh. B, page 5 -- "E-contract..."; Exh. C, page 1 -- "Electronic input purchases and coordination...Electronic grain marketing and coordination"; Exh. C, pages 6-8).

C. DILIGENCE

7. From the time of conception, to a time just prior to the date of the reference, applicants diligently moved towards a prototype and filing of applicants' application identified in the caption of this declaration.
8. Exhibits B and C occurred at a time subsequent to the documents of Exhibit A, up to July 1996, just prior to the effective date of the reference.
9. Exhibit C are pages from a business plan that occurred prior to the formation of the business E-Markets, Inc., the assignee of all interest in the present application, in October 1996.
10. In the summer of 1996 through the end of the year, work occurred on the formation of the company, planning, obtaining capital, hiring personnel, and the beginning of work towards a prototype of the invention.
11. In November 1996, a rough prototypical beginning to an actual embodiment of the invention was begun. See Exhibit D: Reproductions of early screen shots of an experimental developmental prototype of the assignee of all interest in the present application (4 pages).
12. Exhibit D shows the prototype of (a) an internet based corn contracting system (Exhibit D, page 1), (b) a screen showing steps including entry of data into a data base, including identification of a producer ("grower"), the type and amount of corn (page 2), (c) a listing of amounts to which the grower is committed(page 1), (d) received data from the grower on goals and allocations of production (page 1), and (e) the generation of a contract between grower and buyer regarding committed amounts and willing-to-buy amounts (page 4).

13. During the first part of 1997, work continued on a prototype, including hiring of personnel to write computer code and development of computer code.
14. A first prototype was reduced to practice in July 1997.
15. The present application relies on a provisional application filing date of June 22, 1998.
16. From July 1997 to June 1998, further development of the business of E-Markets, Inc. occurred.

D. TIME OF PRESENTATION OF THE DECLARATION

17. This declaration is submitted prior to final rejection.

E. DECLARATION

18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

F. SIGNATURE(S)

19.

Inventor(s)

Full name of first inventor Kevin Kimle

Inventor's Signature Kevin Kimle

Date 8-27-0 Country of Citizenship USA

Residence 3222 Lettie St.. Ames, IA 50014

Post Office Address _____

Full name of second inventor David Krog

Inventor's Signature D.K. Krog

Date 8-27-01 Country of Citizenship USA

Residence 546 Waterbury Circle Des Moines, IA 50312

Post Office Address _____

Full name of third inventor Reynold Harder

Inventor's Signature Ralph Harder

Date 8/27/01 Country of Citizenship USA

Residence 502 Ely (in)

Post Office Address Ames IA 50010

Assignee

Printed Name of Person Signing Scott Cavey

Signature of Person Signing Scott Cavey

Title of Person Signing President and COO

Date 8/27/01

Name of Assignee E-Markets Inc.

Post Office Address 1606 Golden Aspen Dr.

Suite 108 Ames IA 50014

Attachments to Declaration: Exhibits A-D

EXHIBIT A

Elec. Corn Market
 by telephone
 food - meat
 cash

Grain
 white
 yellow
 high oil

White Corn Market

Deliverable where Bid lot
Apr '96 Dens

white corn bid

where
when
highest bid
specifications

* Can we like a simple tool at
five elevators : few bid - mrs
(and bidders) bright me?

- Platforms:

- (1) ~~Segant Software (London)~~
 (not used)
 2) ~~WWW~~
 3) Farm Dayton

* On the animal side can we work w/
TOP to electronically link them w/
Customers?

- Supply Chain Log
 - these customers use computers
 or Farm Dayton to book up.

* Dual Strategy

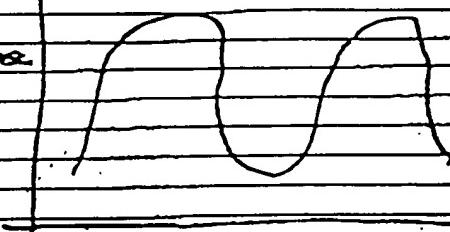
- An electronic "market" on
the grain side
 - An electronic system on
the animal side

? - or do we hook up w/ both
Buses. if power to electronically
manage their project?

Dave. Gandy

→ West Types

Fashions



→ July 1 evaluation w/ Gandy

→ Dinish?

→ Need one vendor per 10 more or a rule

Product Cycles

→ Business-to-Business Transactions

⇒ Done Corp. / Sale and lease ... or
an end-user and source longer

→ International Trade

⇒ more efficient way of commercializing
Trade after all export markets

⇒ only a few exports

→ Contract garments right system

⇒ F.I.T., Sydney

→ Specialties Trade

⇒ Trade are lower for small volume,
specific quality stuff

Product Areas:

offer

- 1) Textile Communications and processing
 - Specific offer - non-specific categories
- 2) Business-to-Business Transaction
 - Specific 3 customer set-ups

(Product thoughts from weekend)

- Take Contracting situations and force info. system to link to electronic transactions future
- Four markets:
 - 1) High Oil Crops
 - 2) Waxy Crops
 - 3) White Crops
 - 4) yellow high quality (Kod)

Low Cropping techniques

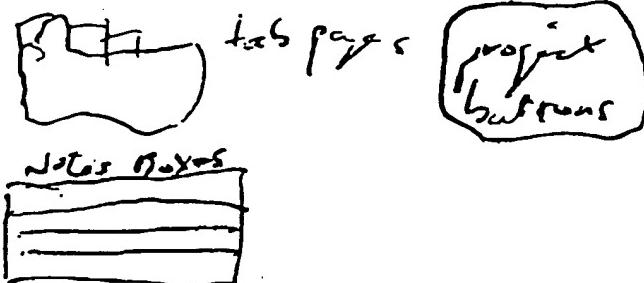
- * Check out "Commodity"
- Iowa Institute of Cooperatives is doing some market stuff for member Coops; specialty grains
- Agribusiness Association of Iowa also doing some activities
 - willing to fund?
- "Revamp" - Rpt. of Ag program -- \$24,000 for bus. plan dev.

Pat Paustian Dept. of Ag
281-6936

* sending info. on
REVALP programs

Contacts Database

Embo ideas:



- Copying is key relational link
- each sector is separate database
- separate databases for survey stuff, financials, etc...

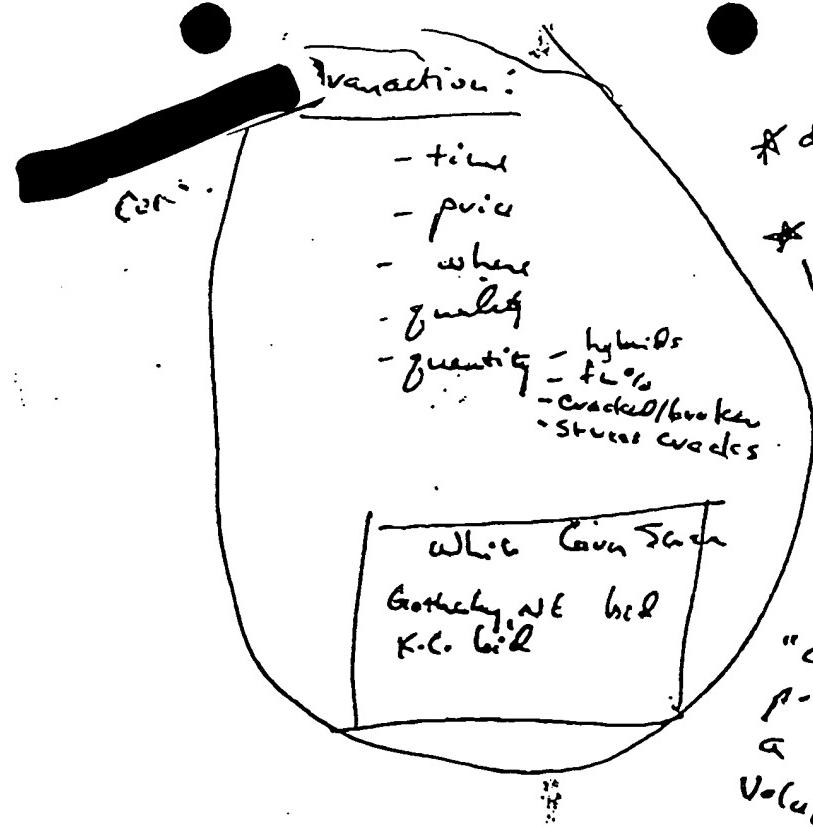
→ How can quickly link today's "I" lists
at tomorrow's Contact database ??

* → make a separate linked database
for

- 1) C. i.d. (key relational link)
- 2) Contacts, etc., etc...
- 3) Survey info

* Start Now w/ organizing the "I"
portion of database (and date entry)

→ linking each sector into
separate relational links
w/ slightly differing
sections



* do ask prices
work?
* just building
building bid
prices is easiest
↳ thin volume
does it a
business
an issue

↓
can do a
"derivative"
price to you ask
a bid price of
Volume

Major Delivery Points:

Frito → Holstein Tx, Sidney IL, Gothic NE

Burke → Kansas City + a few elevators (NE)

Quaker → Cedar Rapids, KC + ^{some} (SW SA)
Cullinan Plantations

Winn → Red Oak

Several in Texas - ~~Aztec~~
Waller, TX - Valley - down
Texas income
Aztec

WA
IL
IN
FL
SD
CA
TX
Little guys up to 30-40 total
locations

EXHIBIT B

Dave

Frito Example

Frito

Futures

Seed

Cut Costs

- ↳ less manpower
- ↳ less energy w/ growing related data
- ↳ less time getting update on crop conditions
- ↳ less paperwork
- ↳ less mail, phone costs
- ↳ less contracting through time

Better Open market purchases

Better Communication

less precise information

Contract Aspects:

- write it
- fill it
 - form
 - phone
 - mail
- pricing
- Coordinate w/ Farmers, etc ..

- settle dispute
- logistics
- delivery

High Olean Sunflower:

100,000 acres

avg in Dakota \$.30/acre

100,000 acres @ \$.30/acre = \$30,000

100,000 acres @ \$.30/acre = \$30,000

grocer expense (200 grocers) = 700,000

sales vep cost = 400,000

gross sales = 1,400,000

gross sales - 1,400,000 = 1,100,000

1,100,000 / 100,000 acres = \$11/acre

Contracted to
Cultured 100,000
5,000 acres
100,000

Opening page

"members" at a
couple levels --
super user like Ent.
→ Associate members --
low transactions...
but can view some
information

... cluster
↓

Enter Acc. &
password

are How to Establish Acc.

Date & "Customize"
button
+ daily of lets
+ delivery schedule

MARKETS

TL Electronic Operating System
for Ag & the Food Industry

... Members

... FTS - into you need

... Tools - to build a better
understanding of your
business needs,
+ industry

... Electronic markets -
buy and sell in the market
of tomorrow...today!

- Who we are \$

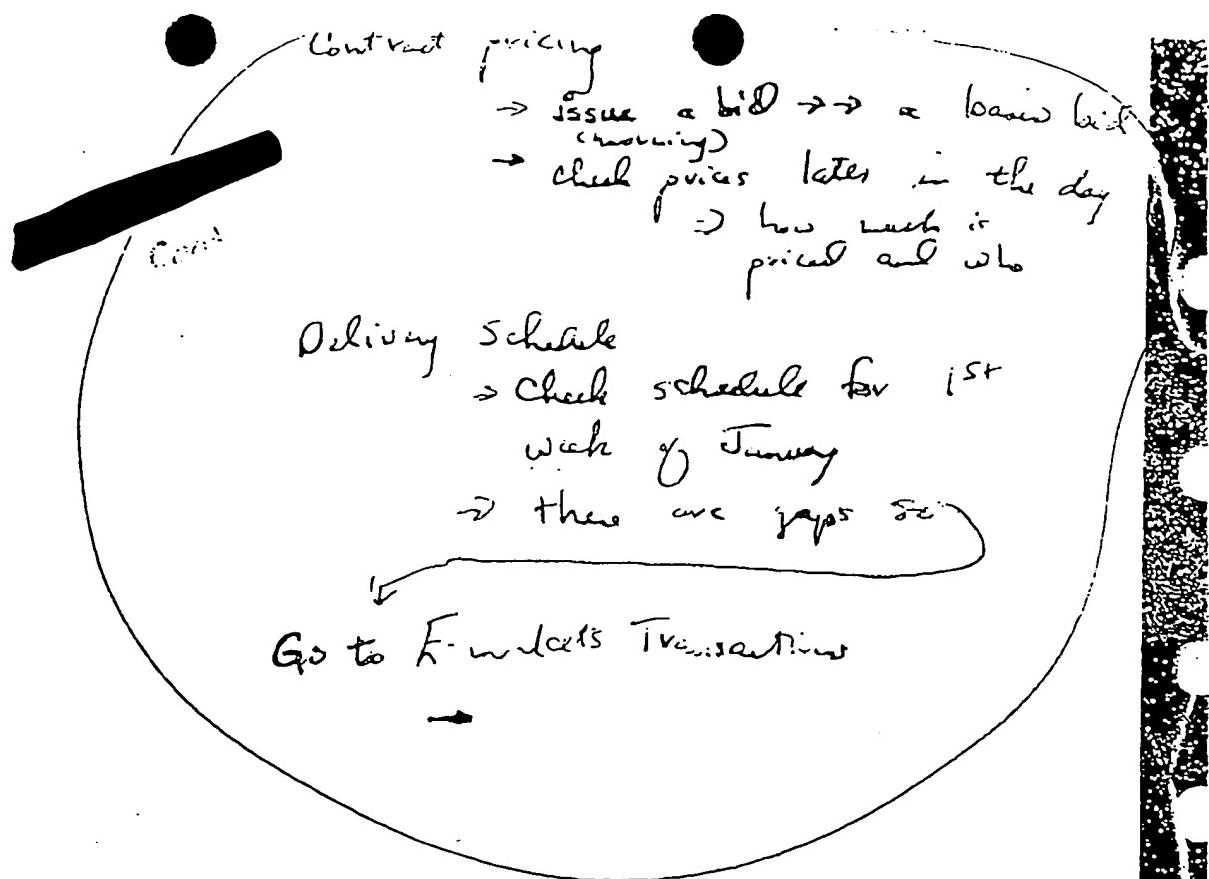
- what we do \$

- Contact us \$

Opening pg. for Fruits
Markets - fruits

... FTS
... Tools:
+ OR + NN
... Electronic markets

- Contact Fruits



F Y I

- Headlines
- futures
- market news
- Stock market
- weather

Tools

- Supply/demand estimate
- GIS-maps
- Trials/hybrid info.
- Industry profiles
- Specialty Grains/
Oilseeds market Overview
- Validator

Elce. ukts.

market update

+ transaction

market

market history

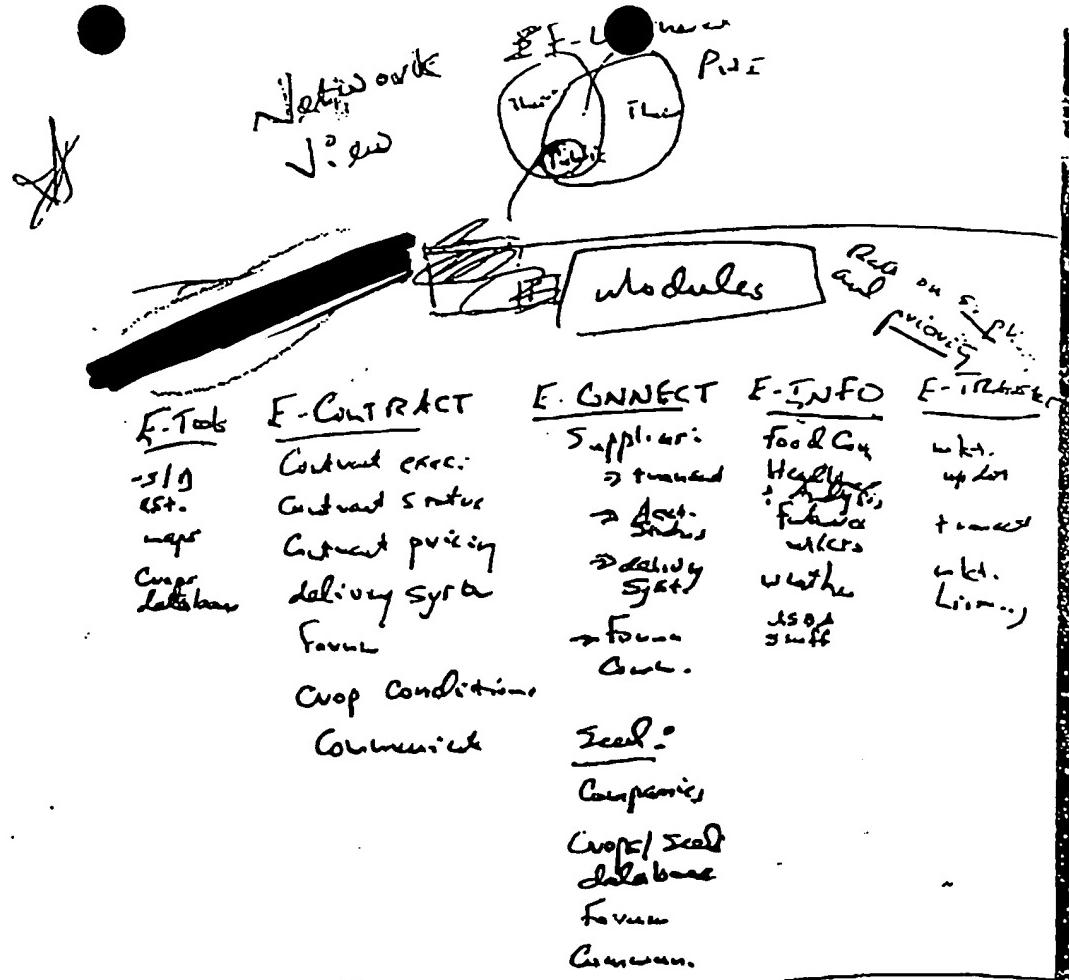
Connect

- Supply side System
 - transactions
 - contract execution
 - contract status
 - pricing
 - delivery system
 - crop conditions
 - forums
 - Email
- Brokers/Dealers

- seed
- genetics
- commercial
- hybrids detail
- trials
- traits

© 1994 Franklin Quest Co. Printed in USA Connect - transactions auto. writing delivery

B 4/5



- De Boer (sp?) in Cedar Rapids has walking the fields product from about to rpt. Crop Conditions
- Went & work it through frt
 - himself on prototype
 - Paper on Go by Monday
 - Then s been C plant manager
 - Then corn "group" in late by
 - Sept. in Dallas
- Crop exec. part of System ??
- Now very interested in E-File. etc. system, but question how to get everyone on.

EXHIBIT C

Competitive and Complementary delivery systems

18

	Information	Communication	Transactions
Farm/FarmerDayta	<ul style="list-style-type: none"> ♦ Futures price quotes ♦ Cash price quotes ♦ Weather forecasts ♦ Weather maps ♦ USDA reports ♦ Private reports ♦ Stock quotes ♦ News wires 	<ul style="list-style-type: none"> ♦ Targeted messages ♦ Farmers 	
Internet	<ul style="list-style-type: none"> ♦ Varied and extensive 	<ul style="list-style-type: none"> ♦ Unsecured two-way communication today 	<ul style="list-style-type: none"> ♦ Not yet
TV/radio	<ul style="list-style-type: none"> ♦ Varied 	<ul style="list-style-type: none"> ♦ Broadcast messages 	
Periodicals	<ul style="list-style-type: none"> ♦ Varied 	<ul style="list-style-type: none"> ♦ Broadcast messages 	
Telephone	<ul style="list-style-type: none"> ♦ Limited 	<ul style="list-style-type: none"> ♦ Two-way one-on-one communication 	<ul style="list-style-type: none"> ♦ Tele-Marketing
Personal	<ul style="list-style-type: none"> ♦ Targeted 	<ul style="list-style-type: none"> ♦ One-on-one 	<ul style="list-style-type: none"> ♦ Widely used
Mail	<ul style="list-style-type: none"> ♦ Varied 	<ul style="list-style-type: none"> ♦ Two-way but slow 	<ul style="list-style-type: none"> ♦ Widely used
E-Markets	<ul style="list-style-type: none"> ♦ Customized information depending on the need 	<ul style="list-style-type: none"> ♦ Secure e-mail ♦ Secure document transfer 	<ul style="list-style-type: none"> ♦ Electronic input purchases and coordination ♦ Electronic grain marketing and coordination ♦ Emarketing and coordination ♦ Electronic livestock transfers ♦ Electronic bank transfers

[A] A:Elec Mkts.htm



The Business Center for [REDACTED] its Suppliers, Partners, and Customers

Electronic Markets

Which Market?

.....Choose which of the active electronic markets you wish to view

- | | |
|---------------------------|-------------------------------------|
| White Corn | <input checked="" type="checkbox"/> |
| White Corn | <input type="checkbox"/> |
| Quality Grade Yellow Corn | <input type="checkbox"/> |
| High Oil Corn | <input type="checkbox"/> |
| Quality Grade Soybeans | <input type="checkbox"/> |
| High Methionine Soybeans | <input type="checkbox"/> |

Electronic Market Update C Perform Transaction C Market History

E-MARKETS HOME PAGE

Contact E-MARKETS

The Business Center for [REDACTED] its Suppliers, Partners, and Customers

FYIInformation you need for your business

ToolsTools to build a better understanding of your markets and business

ConnectLink to industries, suppliers, and customers through the E-MARKETS network

Electronic MarketsBuy and sell in the markets of tomorrow...today!

E-MARKETS HOME PAGE

Contact E-MARKETS

C 318

The Business Center for [REDACTED] Its Suppliers, Partners, and Customers

Electronic Markets

Which Market?

White Corn

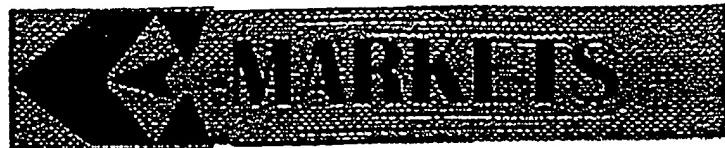
.....Choose which of the active electronic markets you wish to view

Electronic Market Update Perform Transaction Market History

E-MARKETS HOME PAGE

Contact E-MARKETS

C 418



The Electronic Operating System for Agribusiness and the Food Industry

Members EntryMembers enter their E-MARKETS Business Center

FYI ...Information you need for your business

ToolsTools to build a better understanding of your markets and business

ConnectLink to industries, suppliers, and customers through the E-MARKETS network

Electronic MarketsBuy and sell in the markets of tomorrow...today!

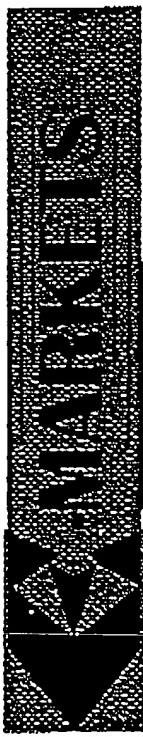
Who is E-MARKETS?

What does E-MARKETS do?

Who does E-MARKETS serve?

Contact E-MARKETS

C 5/8



The Electronic Operating System for Agribusiness and the Food Industry

Who is E-MARKETS?

A company with a mission of helping individuals and organizations in agribusiness and the food industry work together more effectively in delivering products to the consumer. We are committed to connecting disparate elements of the food system through the application of cutting-edge information technologies.

E-MARKETS is a network of information, communication, and secure electronic transactions for agribusiness and the food industry. Our innovative network technologies break down information and communication barriers that exist today in the food system, and serve as the electronic operating system for emerging systems of integrated food production and delivery. We provide an efficient and secure connection across organizations and individuals. We provide a new means for organizations to interact and do business with their suppliers, their customers, and even within their own organizations. We design and develop the products and services that allow users to maximize the value of information and capabilities available through the network.

E-MARKETS has broad-based skills and experience in agribusiness and the food industry. Our skills and abilities are focused on identifying and understanding the information and business needs of agribusiness and the food industry. We then put our information and networking technology skills to work in order to address these needs.

An important source of our skills, knowledge, and experience comes from our partners and consulting associates. Our partners include leading edge network technology companies. And our consultants provide a wide range of information and communication technology, agribusiness, and food expertise.

C 6/8



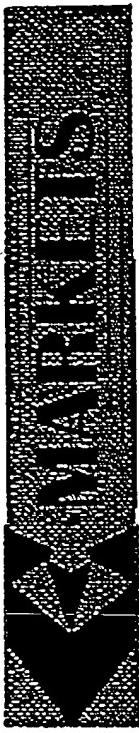
The Electronic Operating System for Agribusiness and the Food Industry

What does E-MARKETS do?

We are transforming the food system by creating electronic market and coordination systems for agribusiness and food interests. We create innovative solutions for the ways individuals and organizations conduct business, and improve the means of 1) information flow, 2) communication, and 3) conducting transactions across industries.

Performance in the food system has been characterized by intense competition within industries, but very little coordination across industries. E-MARKETS is transforming the food system through its role as the electronic operating system of agribusiness and the food industry. E-MARKETS breaks down the barriers between the different industries and sectors of the food chain, to promote effective delivery of right food products to the consumer at the right price and right time.

We provide an advanced, centralized application server that provides an industrial strength platform for on-line electronic commerce and business services. Our network represents a complete solution by offering total versatility and flexibility in use, the ability to scale effectively for any size transaction, and complete security.



The Electronic Operating System for Agribusiness and the Food Industry

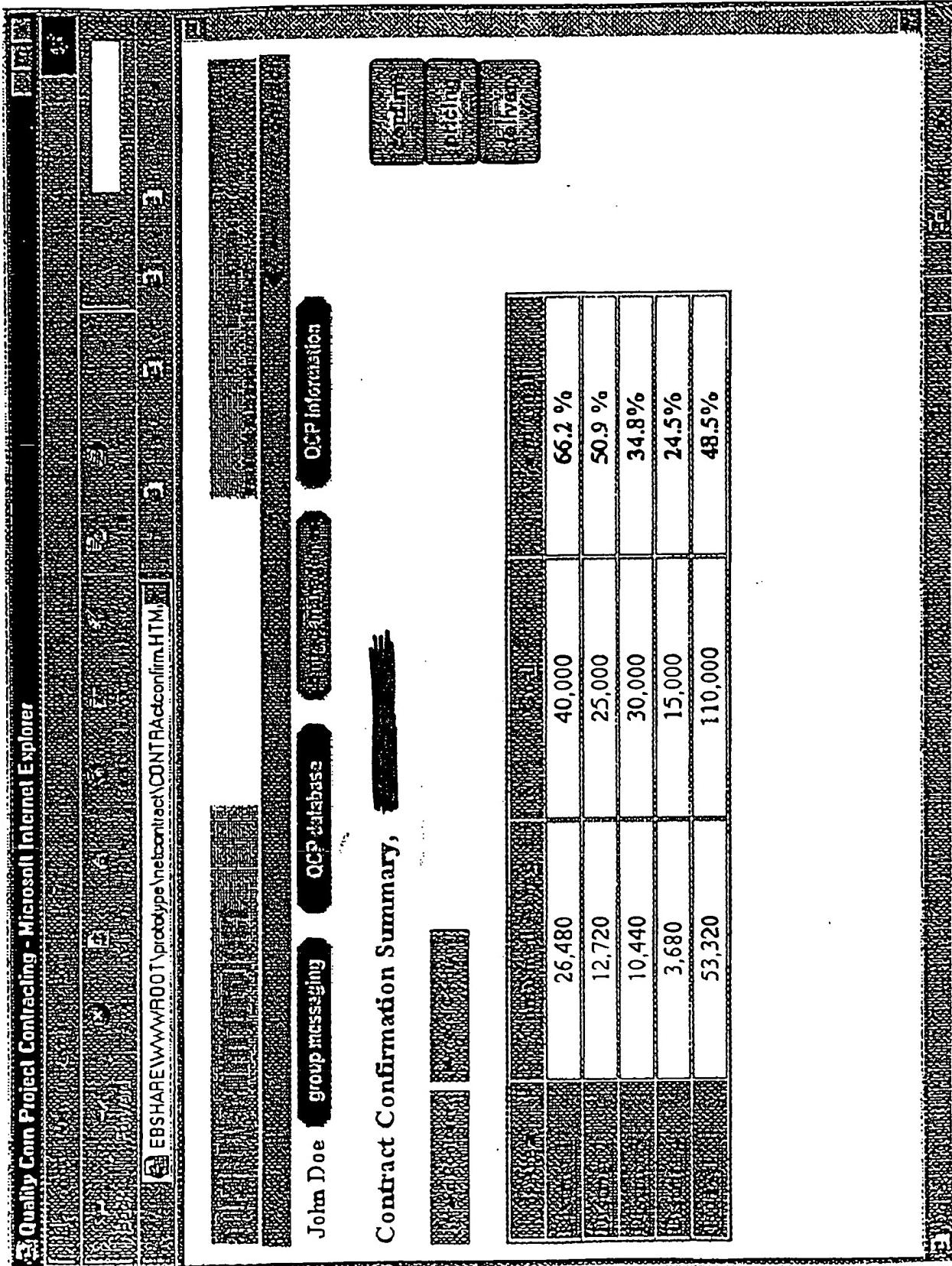
Who does E-MARKETS serve?

We ultimately serve food consumers, and work with anyone who shares our desire to deliver the right food products, at the right time, for the right price. Our clients include a broad spectrum of ag and food interests including input suppliers, farmers, grain elevators and merchandisers, grain and food processors, food wholesalers and retailers, and ultimately consumers.

We are committed to improving information flow throughout the food system, and will continue to act as an objective conduit for its improvement. We remain steadfast in our commitments to:

- high standards of quality
- entrepreneurial activity in agribusiness and the food industry
- the absolute security and integrity of information and electronic commerce
- reliability and dependability of electronic networks
- overall excellence in delivering the food products consumers desire

EXHIBIT D



FEx.D //4

Make a New Contract - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address: <http://in\WEBSHARE\WWWROOT\prototype\newcontract2.htm>

Navigation Buttons: Back Forward Stop Home

Buttons:

Text Fields:

Labels: Make a New Contract, [REDACTED]

- ✓ Step 1:
Step 2:
Step 3:
Step 4:
Step 5:
Step 6:

Enter Grower District

Enter Grower

Enter Hybrid(s)

Enter Acreage

Enter Delivery Periods

Print Contract

Quality Control Business Center - Microsoft Internet Explorer

File	Help

[2] : \\WEBSHARE\WWW\RD01\prototype\newcontrol\FRONT.HTM

John Doe

QCP Database

Contract management

QCP Information

Updated 9:04 CST

scheduling	Joe Leeper, Goodgene	Please note the change of schedule for next week's grower meeting. We will now meet at 9:00 a.m.
contracts	Bob Guy, FCPA	It now appears that most contracted acres will come in above initial yield estimates.
delivery	Liz Smith, Logistics	We will begin scheduling deliveries starting [REDACTED]
scheduling	Joe Leeper, Goodgene	Growers should expect a call from their Goodgene representative after [REDACTED]
delivery	Gary Sifler, Logistics	November deliveries will all shift to the South Pit because of immediate loading needs.
announce	Linda Keeper, Goodgene	The annual grower appreciation dinner has been shifted to [REDACTED] at 7:00 p.m.
contracts	Mark Kenney, Logistics	Estimated contract acreage for next year is 20 percent higher.

D 3/4

960278

960278

Quality Corn Project

Agreement to Grow Corn

THIS AGREEMENT is made this [REDACTED] "between" [REDACTED] (hereinafter "GROWER") and Logistics Grain Company, relates to the production and delivery of corn grain from certain corn hybrid seed. GROWER and LOGISTICS are experienced and knowledgeable in the business practices involved in the cultivation and sale of corn.

1. GENERAL TERMS

GROWER shall produce and deliver an "Identity Preserved" crop from SEED purchased from Goodgene Seed Company. GROWER shall produce the highest quality grain possible to satisfy the specifications in Article 3. GROWER agrees to sell and deliver the total production of GRAIN to LOGISTICS or its designee. GROWER shall take all measures to prevent contamination during growing and handling GRAIN.

a. GROWER agrees to grow _____ acres of GRAIN.

b. GROWER will purchase _____ units from Goodgene seed company

c. GROWER is to request and read the specifications and the complete Limitation of Warranty and Liability associated with the specific SEED purchased for use under this Agreement.

d. GROWER grants LOGISTICS and/or its appointed agents free and easy access to the fields to inspect, evaluate and monitor

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